

# **Channel Islands National Marine Sanctuary Management Plan Revision**

## **Process Update Report to the Sanctuary Advisory Council**

April 30, 2003

This report to the Sanctuary Advisory Council (SAC) provides an update on the management plan revision process for the Channel Islands National Marine Sanctuary. The SAC is being provided with this update at this time to: 1) help newer members understand, and remind veteran members about, some important background information and process history; 2) serve as notice of the current step in the process (agency consultation letter distribution); and 3) explain upcoming steps in the process.

### **Process**

The attached flow diagram charts steps in the management plan revision process along an estimated time schedule. At this time, text of the Draft Management Plan, draft regulations and Draft Environmental Impact Statement are being finalized internally. The past several months have been devoted to this task, which has involved restructuring and revising these documents to accommodate the separation of further boundary analysis into a supplemental process.

#### *Draft Management Plan*

The Sanctuary's original management plan was produced in 1983, and as such is overdue for a major review. The revised Draft Management Plan (DMP) contains information about the Sanctuary's environment and resources, staffing and administration, regulations and boundary, operational and programmatic costs, management issues and priority actions to address them, and program performance measures. The heart of the DMP is a series of action plans that detail non-regulatory management strategies the Sanctuary will employ to address various issues identified during the public process and to carry out the mandate of the National Marine Sanctuaries Act.

#### *Draft Environmental Impact Statement*

CINMS has contracted Tetra Tech, Inc. to prepare a Draft Environmental Impact Statement (DEIS) for the CINMS draft revised management plan that will contain detailed information about the Sanctuary, a range of reasonable alternatives for changes to the management plan, a description of updated and/or new regulations for the Sanctuary, including several alternative sets of regulations, and an analysis of biological and socio-economic impacts of the alternatives.

#### *Draft Regulations*

In 2000, the SAC worked closely with Sanctuary staff to explore a number of possible regulatory changes that might be appropriate for the CINMS. A special workshop on Sanctuary regulations was held, and notes have been kept on the Sanctuary's web site at: [www.cinms.nos.noaa.gov/sac/main.html](http://www.cinms.nos.noaa.gov/sac/main.html) (see "06/14/00 Minutes" and "06/14/00

*Regulatory Concepts Workshop*”). Sanctuary Program staff, in consultation with legal counsel for the National Ocean Service have since further analyzed the input received from the workshop, refined possible regulatory language, and have worked to develop draft regulatory alternatives. The list of possible regulatory changes and additional regulations being considered has remained essentially unchanged. The biological and socio-economic impacts of regulatory alternatives will be analyzed in the Draft Environmental Impact Statement.

Over the past few years the SAC has seen various preliminary components of the DMP, draft regulatory concepts and the DEIS, as well as numerous presentations about them. The Council’s input has helped to shape and refine these important components of the management plan revision.

#### *Boundary Change*

Over the past few years, the question of whether or not the Sanctuary’s boundaries should be expanded has been considered and analyzed by local Sanctuary staff, the SAC, the National Marine Sanctuary Program and the National Oceanic and Atmospheric Administration (NOAA). As has been reported to the SAC and public numerous times since last fall, NOAA has determined that boundary expansion options, including a status quo (i.e. no-change) option, will undergo additional scientific analysis before a preferred alternative is identified. The attached flow diagram shows this supplemental process.

Since last Fall, the Biogeography Team from the NOAA’s National Centers for Coastal Ocean Science (NCCOS) has begun work on a new study: “*A Biogeographic Assessment of the Channel Islands National Marine Sanctuary and Surrounding Areas: A Review of Boundary Expansion Alternatives for NOAA’s National Marine Sanctuary Program.*”

The intent of this work is to assimilate and analyze relevant and comprehensive spatial data to evaluate potential implications of a range of Sanctuary boundary change options. Anticipated products and activities of this assessment will include: 1) a biogeographic analysis and development of a marine geographic information system (GIS) for the area; 2) a robust quantitative ecological analysis of boundary alternatives for resources in the study area (birds, mammals, fish, invertebrates, and habitats critical to those groups); and 3) support for the development of a custom GIS tool to support Sanctuary management for future analyses of biological resources. A Work Plan for the study has been developed and is on the project’s web site:

[http://biogeo.nos.noaa.gov/projects/assess/ca\\_nms/cinms/](http://biogeo.nos.noaa.gov/projects/assess/ca_nms/cinms/). Upon completion of the biogeographic study, findings will be incorporated into a supplemental environmental impact statement analyzing boundary change alternatives (see attached process flow diagram).

#### *Marine Reserves*

On October 23, 2002, the California Fish and Game Commission approved the establishment of a network of marine protected areas within State waters of the Sanctuary. Their decision was the culmination of more than three years of public process sponsored by the California Department of Fish and Game and the Sanctuary to consider a network of marine reserves throughout the entire Sanctuary. CINMS is currently

initiating an environmental review process to consider establishing a network of marine reserves to complement the State's action in the Sanctuary. The attached process timeline details the environmental review process and a framework for coordinating with the Pacific Fishery Management Council (PFMC) and broader public.

### **Current Step - Agency Consultation Letters**

As part of the management plan revision process, the National Marine Sanctuary Program consults with a wide range of interested federal, state and local agencies. Over the course of the process, communications and meetings have taken place with over 40 such governmental entities.

Pursuant to Section 304(a)(4) of the National Marine Sanctuaries Act (NMSA), a Sanctuary's terms of designation set forth the geographic area included within the Sanctuary; the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational or esthetic value; and the types of activities that will be subject to regulation by NOAA to protect those characteristics. These details are contained in a Designation Document that is published in the Federal Register (attached). The NMSA also specifies that the terms of designation may be modified, but only by the same procedures by which the original designation was made. These procedures include posting public notices, releasing relevant documents for public review, Congressional review, and holding public hearings – all of which are occurring with the management plan revision process.

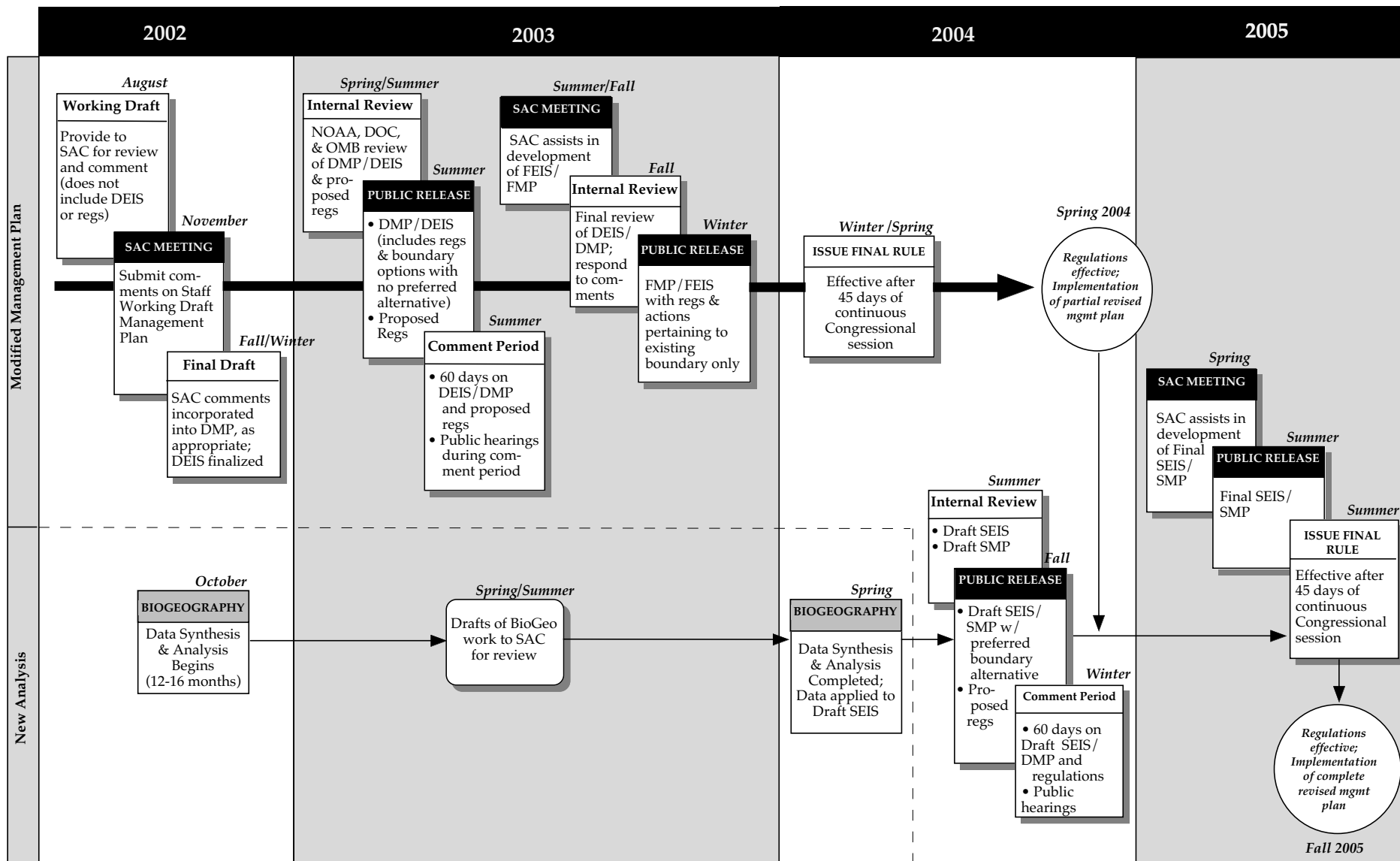
Since the CINMS process includes consideration of some revised or new regulations that address activities not currently listed in the Sanctuary's Designation Document as subject to regulation (such as damaging signs or releasing exotic species, for example), the Designation Document would need to be modified. At this time, a list of the Designation Document changes being considered is being transmitted to numerous federal, state and local agencies via a consultation letter. The consultation letter (see attached) also provides notice to these agencies that a draft management plan and draft environmental impact statement are being finalized and prepared for release, and asks for agency comments or questions within sixty days.

### **Next Steps**

Further discussion about the management plan process will take place at the SAC meeting on May 16<sup>th</sup>, 2003. You can also contact Michael Murray before the meeting to discuss this ([michael.murray@noaa.gov](mailto:michael.murray@noaa.gov)). Also at the May 16th SAC meeting, discussion will take place concerning the Council's role upon public release of the DMP/DEIS.

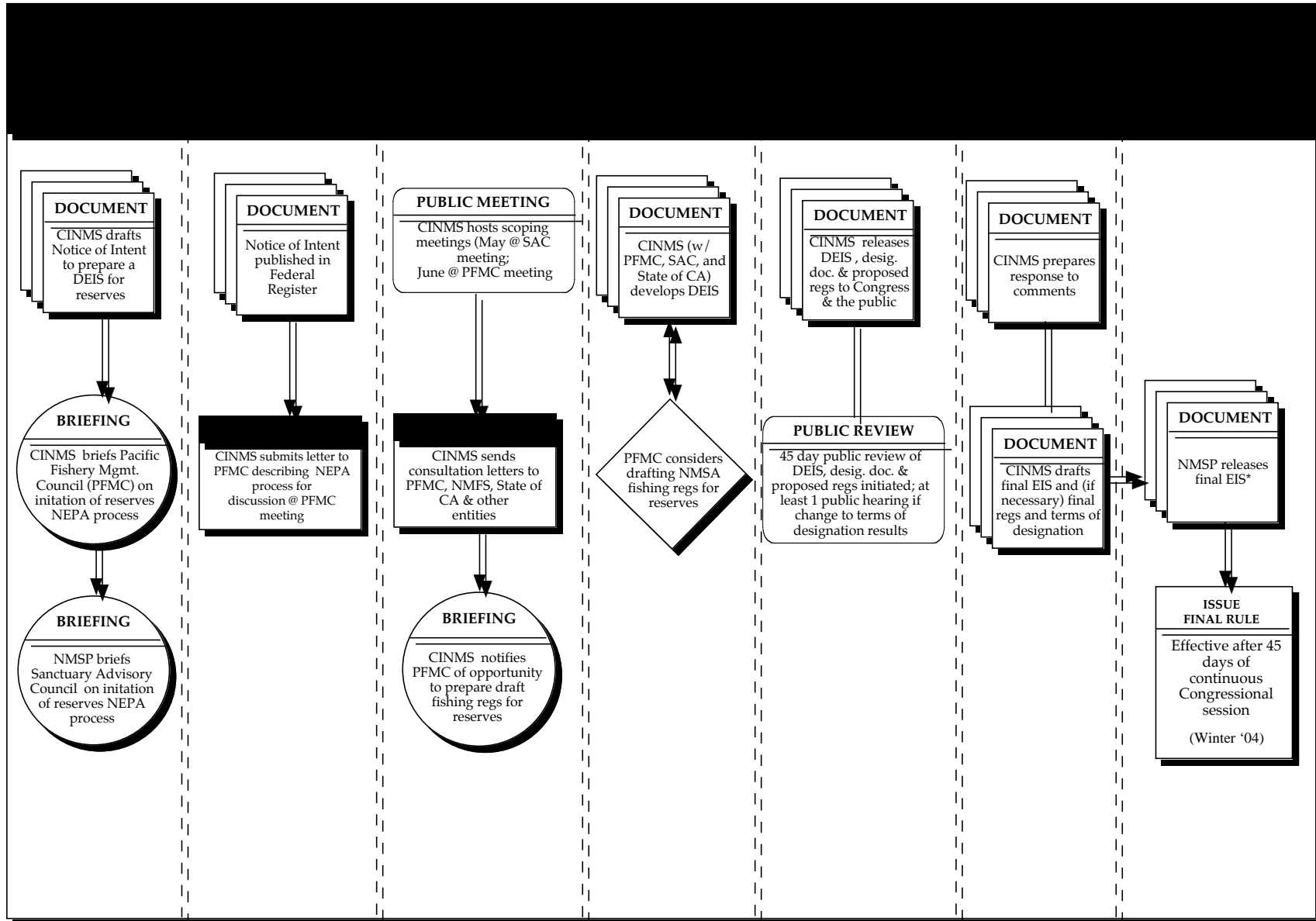
At this time, a summer public release of the DEIS/DMP is expected. The length of time it will take to complete internal agency reviews and obtain necessary clearances is difficult to predict with accuracy, but staff will keep the SAC advised on progress. Upon release of these documents, a sixty-day comment period will commence.

# DRAFT - PROPOSED ACTIVITIES AND UPDATED TIMELINE FOR THE CINMS MANAGEMENT PLAN AND EIS



Last Updated: May, 2003

## DRAFT - ENVIRONMENTAL REVIEW PROCESS TO CONSIDER CINMS RESERVES



Last Updated: May 1, 2003

## SAMPLE LETTER FOR CINMS ADVISORY COUNCIL - April 30, 2003

Dear \_\_\_\_\_:

The National Oceanic and Atmospheric Administration's (NOAA) National Ocean Service's National Marine Sanctuary Program (NMSP) has initiated a process to review the management plan of the Channel Islands National Marine Sanctuary (CINMS or Sanctuary). The approximately 1,252 square nautical mile (NM) Sanctuary extends seaward to a distance of six NM offshore of the following islands and offshore rocks: San Miguel Island, Santa Cruz Island, Santa Rosa Island, Anacapa Island, Santa Barbara Island, Richardson Rock, and Castle Rock. These islands and offshore rocks are located offshore from Santa Barbara and Ventura Counties in California. The NMSP is conducting this process pursuant to Sec. 304(e) of the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1434(e)), which requires the Secretary of Commerce (Secretary) to evaluate at five-year intervals the substantive progress toward implementing the management plan and goals for each sanctuary, and to revise the management plan and regulations as necessary to fulfill the purposes and policies of the NMSA. As required by section 304(e), each review includes a prioritization of management objectives.

As part of this review, the NMSP is considering changes to the Sanctuary's terms of designation (as defined by Sec. 304(a)(4) of the NMSA; 16 U.S.C. 1434(a)(4); and laid out in the attached Sanctuary Designation Document). The potential changes could include clarifying that the submerged lands underlying Sanctuary waters are legally part of the Sanctuary, and updating the description of the characteristics of the area that give it particular value. Potential changes to the list of types of activities subject to Sanctuary regulation could include:

- Adding discharging or depositing from beyond the boundary of the Sanctuary any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality;
- Deleting the qualifier of "within two [NM] of any island" on alteration of, or construction on, the seabed;
- Adding placing or abandoning any structure, material or other matter on the seabed;
- Regarding Sanctuary historical resources, changing "Removing or otherwise deliberately harming cultural or historical resources" to "Moving, removing or injuring, or attempting to move, remove or injure a Sanctuary historical

## SAMPLE LETTER FOR CINMS ADVISORY COUNCIL - April 30, 2003

resource" (note: "historical resources" include cultural resources)

- Adding taking or possessing any marine mammal, marine reptile or seabird in or above the Sanctuary;
- Adding interfering with, obstructing, delaying or preventing an investigation, search, seizure or disposition of seized property in connection with enforcement of the NMSA;
- Adding marking, defacing, damaging, moving, removing or tampering with any sign, notice or placard, whether temporary or permanent, or any monument, stake, post or other boundary marker related to the Sanctuary;
- Adding introducing or otherwise releasing a member of an exotic species or genetically modified species into the Sanctuary;
- Adding lightering in the Sanctuary.

While no final decisions have been made, many of these potential changes reflect consideration of comments received from the public and the Sanctuary Advisory Council, as well as the priority issues identified during this management plan review process.

One issue that was raised during scoping was that the present Sanctuary boundary does not encompass the regional CINMS ecosystem. However, expansion of Sanctuary boundaries is not being considered at this time. Boundary change options will be studied further over the next year, and alternatives will be presented in a supplemental environmental impact statement (EIS) expected to be released in mid-2004. In the future, you will receive a separate consultation letter regarding this potential action prior to release of the supplemental EIS.

Also being addressed separately from this action is the consideration of specific marine reserves (no-take areas) within the existing Sanctuary boundary, in order to complement marine reserves recently established by the State of California within portions of the state waters of the Sanctuary. Consideration of these federal marine reserves will commence in early 2003, involving consultation with relevant management agencies, the Pacific Fishery Management Council, and the public via a National Environmental Policy Act (NEPA) process. As part of this process, you will receive a separate consultation letter regarding this potential action.

The Secretary, through the NMSP, is consulting with relevant Federal agencies, the heads of appropriate State and local government entities, the appropriate officials of the Pacific Fishery Management Council and other interested parties.

## SAMPLE LETTER FOR CINMS ADVISORY COUNCIL - April 30. 2003

In responding to this letter, please take into account the following factors the Secretary must consider (16 U.S.C. 1433(b)(1)):

(A) the area's natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, maintenance of critical habitat of endangered species, and the biogeographic representation of the site;

(B) the area's historical, cultural, archaeological, or paleontological significance;

(C) the present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, and research and education;

(D) the present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), and (C);

(E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of the NMSA;

(F) the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

(G) the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

(H) the negative impacts produced by management restrictions on income-generating activities such as living and nonliving resources development;

(I) the socioeconomic effects of sanctuary designation;

(J) the area's scientific value and value for monitoring the resources and natural processes that occur there;

(K) the feasibility, where appropriate, of employing innovative management approaches to protect sanctuary resources or to manage compatible uses; and

(L) the value of the area as an addition to the National Marine Sanctuary System.

SAMPLE LETTER FOR CINMS ADVISORY COUNCIL - April 30. 2003

To ensure that any information, recommendations, or comments are considered in the preparation of the draft environmental impact statement, I would appreciate your response within sixty (60) days of receipt of this letter.

A map of the Sanctuary is enclosed for your reference. If you have any questions regarding this process, contact Sanctuary Management Plan Coordinator Michael Murray at (805) 884-1464. Please direct your response to:

Christopher Mobley, Manager  
Channel Islands National Marine Sanctuary  
RE: CINMS Management Plan Review Consultation  
113 Harbor WAY  
Santa Barbara, CA 93109

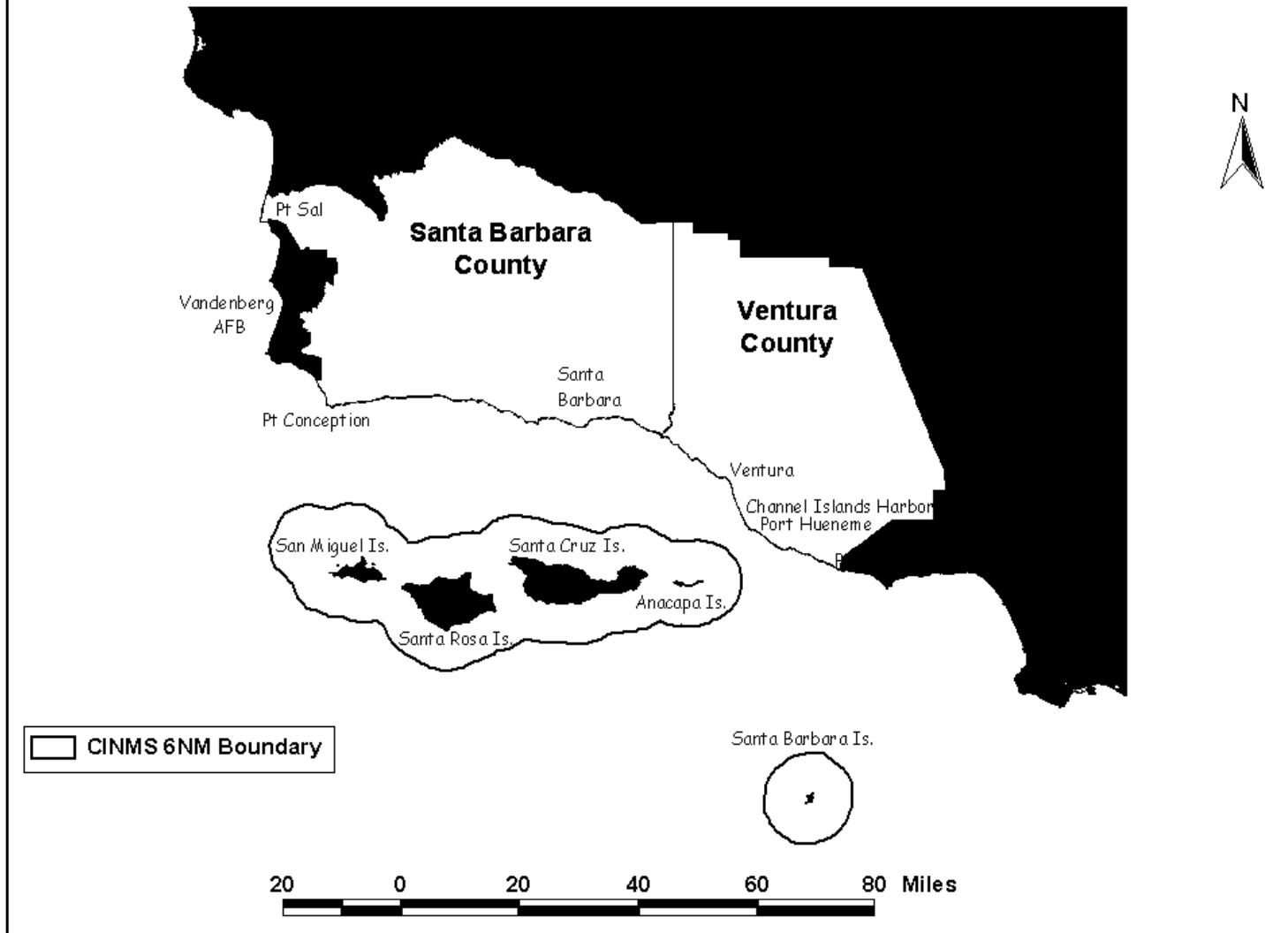
We appreciate your assistance in this matter.

Sincerely,

Jamison S. Hawkins  
Acting Assistant Administrator

Enclosures [sanctuary map, Sanctuary designation document]  
cc: Daniel J. Basta

## Channel Islands NMS Location Map



*Final Designation Document*

***Designation of the Channel Islands National Marine Sanctuary***

*Preamble*

Under the authority of the Marine Protection, Research and Sanctuaries Act of 1972. Pub. L. 92-532 (the Act) the waters surrounding the northern Channel Islands and Santa Barbara Island are hereby designated a Marine Sanctuary for the purpose of preserving and protecting this unique and fragile ecological community.

*Article 1. Effect of Designation*

Within the area designated as the Channel Islands National Marine Sanctuary (the Sanctuary), described in Article 2, the Act authorizes the promulgation of such regulations as are reasonable and necessary to protect the values of the Sanctuary. Article 4 of this Designation lists those activities which may require regulation but the listing of any activity does not by itself prohibit or restrict it.

*Article 2. Description of the Area*

The Sanctuary consists of an area of the waters off the coast of California, of approximately 1252.5 square nautical miles (nm), adjacent to the northern Channel Islands and Santa Barbara Island seaward to a distance of 6 nm. The precise boundaries are defined by regulation.

*Article 3. Characteristics of the Area That Give it Particular Value*

The Sanctuary is located in an area of upwelling and in a transition zone between the cold waters of the California Current and the warmer Southern California Countercurrent. Consequently, the Sanctuary contains an exceptionally rich and diverse biota, including 30 species of marine mammals and several endangered species of marine mammals and sea birds. The Sanctuary will provide recreational experiences and scientific research opportunities and generally will have special value as an ecological, recreational, and esthetic resource.

*Article 4. Scope of Regulation*

Section 1. *Activities Subject to Regulation.* In order to protect the distinctive values of the Sanctuary, the following activities may be regulated within the Sanctuary to the extent necessary to ensure the protection and preservation of its marine features and the ecological, recreational, and esthetic value of the area:

- a. Hydrocarbon operations
- b. Discharging or depositing any substance
- c. Dredging or alteration of, or construction on, the seabed
- d. Navigation of vessels except fishing vessels or vessels traveling within a Vessel Traffic Separation Scheme or Port Access Route designated by the Coast Guard outside of 1 nm from any island
- e. Disturbing marine mammals or birds by overflights below 1000 feet
- f. Removing or otherwise deliberately harming cultural or historical resources

Section 2. *Consistency with International Law.* The regulations governing the activities listed in Section 1 of this article apply to foreign flag vessels and persons not citizens of the United States only to the extent consistent with recognized principles of international law including treaties and international agreements to which the United States is signatory.

Section 3. *Emergency Regulations.* Where essential to prevent immediate, serious and irreversible damage to the ecosystem of the area, activities other than those listed in Section 1 may be regulated within the limits of the Act on an emergency basis for an interim period not to exceed 120 days, during which an appropriate amendment of this article would be proposed in accordance with the procedures specified in Article 6.

*Article 5. Relation to Other Regulatory Programs*

Section 1. *Fishing.* The regulation of fishing is not authorized under Article 4. However, fishing vessels may be regulated with respect to discharges in accordance with Article 4, Section 1, paragraph (b) and aircraft conducting kelp bed surveys below 1000 feet can be regulated in accordance with Article 4, Section 1, paragraph (e). All regulatory programs pertaining to fishing, including particularly regulations promulgated under the California Fish and Game Code and Fishery Management Plans promulgated under the Fishery and Conservation Act of 1976, 16 USC.1801 et seq., shall remain in effect. All permits, licenses and other authorizations issued pursuant thereto shall be valid within the Sanctuary unless authorizing any activity prohibited by any regulation implementing Article 4. Fishing as used in this article and in Article 4 includes kelp harvesting.

Section 2. *Defense Activities.* The regulation of those activities listed in Article 4 shall not prohibit any activity conducted by the Department of Defense that is essential for national defense or because of emergency. Such activities shall be consistent with the regulations to the maximum extent practicable.

Section 3. *Other Programs.* All applicable regulatory programs shall remain in effect and all permits, licenses and other authorizations issued pursuant thereto shall be valid within the Sanctuary unless authorizing any activity prohibited by any regulation implementing Article 4. The Sanctuary regulations set forth any necessary certification procedures.

*Article 6. Alterations to this Designation*

This designation can be altered only in accordance with the same procedures by which it has been made, including public hearings, consultation with interested Federal and State agencies and the Pacific Fishery Management Council, and approval by the President of the United States.

[End of Designation Document]

Only those articles listed in Article 4 are subject to regulation in the Sanctuary. Before any additional activities may be regulated, the Designation must be amended through the entire designation procedure including public hearings and approval by the President.

*Dated: September 28, 1980.*

*Michael Glazer,*

*Assistant Administrator for Coastal Zone Management*